

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

MELVIN DUMMAR,

Plaintiff,

v.

WILLIAM FRANK LUMMIS and  
FRANK WILLIAM GAY,

Defendants.

2:07-CV-459 JCM (PAL)

Date: N/A

Time: N/A

**ORDER**

Presently before the court is plaintiff's objection to the magistrate judge's order of December 7, 2007 (Doc. # 50) under Federal Rule of Civil Procedure 72 (Doc. # 51). Defendants filed an opposition on January 2, 2008 (Doc. # 52).

The instant objection challenges the magistrate judge's order (Doc. # 50) denying plaintiff's claim that Gay II cannot be accepted as the representative of Gay I's estate until defendants submit proof of personal representative status. The magistrate judge denied this motion as an issue already addressed in its report of findings and recommendation (Doc. # 42), and therefore untimely, futile, and a waste of judicial resources. Additionally, the magistrate judge found plaintiff's failure to support his motion with accompanying points and authorities in violation of Local Rule 7-2(d).

Although plaintiff does not caption it as such, the instant objection seeks to reconsider an issue this court has also already addressed. Because this court affirmed the magistrate judge's report and recommendation on December 26, 2007 (Doc. # 53), the instant objection seeks to indirectly

1 challenge that determination. "Reconsideration is appropriate if the district court (1) is presented  
2 with newly discovered evidence, (2) committed clear error or the initial decision was manifestly  
3 unjust, or (3) if there is an intervening change in controlling law." *Sch. Dist. 1J v. ACandS*, 5 F.3d  
4 1255, 1263 (9th Cir. 1993) (citation omitted).


5 Plaintiff fails to establish that any of the three grounds for reconsideration exist in the instant  
6 case. In fact, plaintiff fails to cite any relevant authority or make any substantive arguments in  
7 support of his objection. Plaintiff also fails to properly request a motion for reconsideration, instead  
8 presenting new arguments that the court could have resolved in accordance with the earlier motion.  
9 The court has already concluded that the original motion for substitution was time-barred under  
10 Federal Rule of Civil Procedure 25(a)(1). Any objection seeking to readdress that issue is similarly  
11 futile and a waste of judicial resources, as the magistrate judge correctly concluded in her order (Doc.  
12 # 50).

13 The defendants present no adequate reason to review, and the court finds no reason to  
14 reconsider its previous order (Doc. # 53) affirming the magistrate judge's report and  
15 recommendation in its entirety (Doc. # 42). Therefore, the court concurs with the findings of the  
16 magistrate judge in her December 5, 2007, order (Doc. # 50) and finds no reason to grant the  
17 plaintiff's instant motion.

18 UPON CONSIDERATION of plaintiff's motion (Doc. # 51), and the papers and pleadings  
19 on file in this matter,

20 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff's motion for  
21 review of magistrate order of December 7, 2007, under Federal Rule of Civil Procedure 72 be, and  
22 the same hereby is, DENIED.

23 DATED this 16th day of July, 2008.

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26 **UNITED STATES DISTRICT JUDGE**  
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